

BAKER & HOSTETLER LLP

45 Rockefeller Plaza
New York, NY 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201
David J. Sheehan
Nicholas J. Cremona

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

BRIERPATCH INVESTMENT LLC, as successor
in interest to Brierpatch Investment Limited
Partnership; GEORGE D. LEVY TRUST U/T/D
AUGUST 17, 1990, in its capacity as a member of
Brierpatch Investment LLC; KAREN S. LEVY
TRUST U/T/D DATED AUGUST 17, 1990, in its
capacity as a member of Brierpatch Investment

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-04402 (SMB)

LLC; LISA M. LEVY 1987 TRUST U/T/D JUNE 17, 1987, in its capacity as a member of Brierpatch Investment LLC; PAUL D. LEVY 1989 TRUST U/T/D DECEMBER 21, 1989, in its capacity as a member of Brierpatch Investment LLC; JOANNE V. LEVY 1996 TRUST U/T/D MARCH 26, 1996, in its capacity as a member of Brierpatch Investment LLC; LEVY FAMILY 2002 IRREVOCABLE TRUST U/T/D MAY 13, 2002, in its capacity as a member of Brierpatch Investment LLC; ESTATE OF GEORGE D. LEVY; KAREN S. LEVY, in her capacity as Trustee for the George D. Levy Trust, the Karen S. Levy Trust, the Lisa M. Levy 1987 Trust, the Paul D. Levy 1989 Trust and the Joanne V. Levy 1996 Trust and in her capacity as Personal Representative of the Estate of George D. Levy; ROBERT C. FIRST, in his capacity as Trustee for the George D. Levy Trust, the Karen S. Levy Trust and the Levy Family 2002 Irrevocable Trust; DAVID R. ANDELMAN, in his capacity as Trustee for the George D. Levy Trust, the Karen S. Levy Trust and the Levy Family 2002 Irrevocable Trust; LISA L. SHAUB, individually and in her capacity as custodian for N.S. and G.S., Members of Brierpatch Investment LLC; PAUL D. LEVY, individually and in his capacity as custodian for J.L. and B.L., Members of Brierpatch Investment LLC; and JOANNE V. LEVY, individually and as a Member of Brierpatch Investment LLC,

Defendants.

NOTICE OF MEDIATION REFERRAL

On November 10, 2010, this Court entered the Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order (the “Order”)¹ [Adv. Pro. No. 08-01789 (SMB), Dkt. No. 3141]. Pursuant to

¹ All terms not defined herein shall be given the meaning ascribed to them in the Order.

the Notice of Applicability filed by Plaintiff Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), in this Adversary Proceeding on November 30, 2010 [Dkt. No. 2], the Order and the avoidance procedures contained therein (the “Avoidance Procedures”) are applicable to the instant matter.

On October 3, 2011 Defendants filed a motion to dismiss this adversary proceeding [Dkt. No. 11] pursuant to Federal Rule of Civil Procedure 12(b)(6), made applicable by Bankruptcy Rule 7012 (a “Rule 12(b)(6) Motion”).

Pursuant to the Avoidance Procedures, upon the filing of a Rule 12(b)(6) Motion, the issues raised in such motion, together with the issues raised in the Complaint, are immediately referred to mediation. Avoidance Procedures, ¶2D.

Pursuant to the Avoidance Procedures, within 14 calendar days after the filing of this Notice of Mediation Referral, the Trustee and Defendants (the “Parties”) shall choose a mediator in accordance with the Mediation Order. If the Parties are unable to agree on a mediator, the Court shall appoint one in accordance with the Mediation Order. Avoidance Procedures, ¶5C.

Dated: New York, New York

May 13, 2014

Of Counsel:

BAKER & HOSTETLER LLP
811 Main, Suite 1100
Houston, Texas 77002
Telephone: (713)751-1600
Facsimile: (713)751-1717
Dean D. Hunt
Email: dhunt@bakerlaw.com
Farrell A. Hochmuth
Email: fhochmuth@bakerlaw.com

BAKER & HOSTETLER LLP

By: /s/ Nicholas J. Cremona
45 Rockefeller Plaza
New York, New York 10111
Telephone: 212.589.4200
Facsimile: 212.589.4201
David J. Sheehan
Email: dsheehan@bakerlaw.com
Nicholas J. Cremona
Email: ncremona@bakerlaw.com

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities
LLC and the Estate of Bernard L. Madoff*